IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

: O R D E R :

Prem Raj Vs. State of Rajasthan & Others.
(S.B. Civil Writ Petition No.766/2004.)

DATE OF ORDER : May 23, 2007

P R E S E N T

Hon'ble Mr. Justice Gopal Krishan Vyas

Mr. Mr. Manish Shishodia for the petitioner.
Mr. Chaitanya Gahlot for the respondents.
Mr. Ashok Upadhyay, Dy. G.A.

BY THE COURT :

By this writ petition, the petitioner has prayed for quashing impugned order dated 16.09.2002, Annex.-2 passed by Panchayat Samiti, Rajgarh and judgment dated 09.09.2003, Annex.-3 passed by the District Collector, Churu.

According to facts narrated in the writ petition, a patta was issued in favour of the petitioner for land measuring 350 sq yrds on 05.09.1972. In that patta, neighbourhood plots of the petitioner was mentioned. According to the patta, in the eastern

side of the land of the petitioner, bada land of Shivdan Brahmin is mentioned and, as per petitioner, common way on the western side was presently encroached upon by private respondent Jaiveer Singh; on the northern side, there is vacant land which is presently encroached by Jaiveer Singh and Ishwar Singh while in the southern side land belonging to Chimana is situated. Further, as per the facts, private respondents encroached upon the land of the petitioner so as to trespass over it and the petitioner, through his mother, filed suit for dispossession which is pending in the Court of Civil Judge (Jr. Dn.), Rajgarh.

During the pendency of the civil suit, the private respondents filed a belated appeal before the respondent Panchayat Samiti, Rajgarh for correction in the patta. In the appeal, it was contended by respondent Jaiveer Singh that while issuing the patta on 05.09.1972, in the eastern side, bada land of Shivdan Brahmin is shown which is not correct and respondent Jaiveer Singh prayed that patta may be corrected and, in place of land of bada of Shivdan Brahmin, his name may be shown.

After hearing both the parties, on the basis of inspection report and other relevant documents, the Panchayat Samiti, Rajgarh passed order on 16.09.2002 whereby Gram Panchayat Binjawas, which had issued the patta Annex.-1, was directed to

make correction in the patta as under :

> "पूर्वी सीमा में अंकित श्योदान ब्राह्मण का बाडा शब्द को हटाकर उसके स्थान पर जयवीर पुत्र सुलतान जाट का बाडा अंकित किया जाकर संशोधन किया जावे।"

Against this order dated 16.09.2002 the petitioner filed a revision petition before the District Collector, Churu and the District Collector, Churu, after hearing both the parties, decided the matter on the ground that Premraj s/o Hardwari Lal cannot be an aggrieved party because by way of the said correction no rights have been given to Jaiveer Singh, respondent. It has also been held by the Collector, Churu that due to correction the order made by the Panchayat Samiti no adverse effect is caused against petitioner Premraj. The revisional authority held that it is only correction of the name of neighbourhood on the eastern side of the patta land and no irreparable loss has been suffered by the petitioner nor any right of the petitioner has been infringed. It is further observed that the only aggrieved party in this matter is Shivdan Brahmin whose name was deleted by the correction made in the patta and he can agitate against order passed by the Panchayat Samiti for correction in the patta.

Learned counsel for the petitioner submits that civil suit is pending with regard to possession of the land, therefore, the respondent while over-reaching the process of court filed the

appeal before the Panchayat Samiti and impugned order has been passed by the Panchayat Samiti. Learned counsel for the petitioner prayed that patta was issued in the year 1972 and challenge to the said patta for correction has been made after a long delay. According to him, there was no question of condoning delay. Likewise, the assertion of the revisional Court that Shivdan Brahmin has not appreached the Court who was the aggrieved party is erroneous because correction has been made in the patta issued to the petitioner, therefore, the impugned order deserves to be quashed.

Learned counsel for respondent No.5 vehemently contended that correction can be made at any stage and no objection can be raised about delay in filing appeal for correction. It is also contended by learned counsel for respondent No.5 that due to correction in the patta no right of the petitioner has been infringed nor the correction adversely affects rights of the petitioner over the land in respect of which patta has been issued in his favour. It is contended that vide order of correction in the appeal no order has been passed for reducing the total dimension of the patta land in favour of the the petitioner.

The learned counsel for the State supported the order passed by the District Collector.

I have perused the orders Annex.-1 and 2. Obviously, the appellate authority only passed order for correction of name of neighbourhood on the eastern side after hearing the parties and considering relevant documents and no right of the petitioner accruing in his favour by the patta has been infringed upon. In this view of the matter, I do not find any occasion to interfere with the finding arrived at by the revisional authority as well as Panchayat Samiti, Rajgarh.

Consequently, the petition is dismissed.

(Gopal Krishan Vyas) J.